

**MINUTES OF THE OPEN SESSION
OF THE RHODE ISLAND ETHICS COMMISSION**

October 20, 2015

The Rhode Island Ethics Commission held its 12th meeting of 2015 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, October 20, 2015, pursuant to the notice published at the Commission offices, the State House Library, and electronically with the Rhode Island Secretary of State.

The following Commissioners were present:

Ross Cheit, Chair	Frederick K. Butler
John D. Lynch, Jr., Vice Chair*	Timothy Murphy
Robert A. Salk, Secretary	Marisa A. Quinn
M. Therese Antone	

Also present were Edmund L. Alves, Jr., Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Katherine D'Arezzo, Senior Staff Attorney; Jason Gramitt, Education Coordinator/Staff Attorney; Staff Attorneys Teresa Giusti and Amy C. Stewart; and Commission Investigators Steven T. Cross, Peter J. Mancini and Gary V. Petrarca.

At 9:01 a.m., the Chair opened the meeting. The first order of business was:

Approval of minutes of the Open Session held on September 22, 2015.

Upon motion made by Commissioner Antone and duly seconded by Commissioner Murphy, it was

VOTED: To approve minutes of the Open Session held on September 22, 2015.

AYES: Timothy Murphy; Marisa A. Quinn; M. Therese Antone; Frederick K. Butler; Ross Cheit.

ABSTENTIONS: Robert A. Salk.

The next order of business was:

Advisory Opinions.

The advisory opinions were based on draft advisory opinions prepared by Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date.

The first advisory opinion was that of:

Sheila M. McGauvran, a member of the North Kingstown School Committee (“School Committee”), requesting an advisory opinion regarding whether the Code of Ethics prohibits her from applying for and accepting, if offered, the position of North Kingstown Town Manager.

*Commissioner Lynch arrived at 9:06 a.m.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Staff Attorney Stewart summarized the draft advisory opinion and explained that there are two Options presented for the Commission’s consideration. She stated that Option #1 would grant an exception, pursuant to Commission Regulation 36-14-5014(c) (“Regulation 5014”), and permit the Petitioner to apply for and accept, if offered, the position of Town Manager. She stated that Option #2 would find that the Petitioner is prohibited by Regulation 5014 from applying for the position of Town Manager while serving on the School Committee and for one year after leaving public office. She informed that the two Options allow the Commission to consider whether or not there would be an appearance of impropriety if an exception to the revolving door restriction was granted.

In response to Commissioner Murphy, Staff Attorney Stewart clarified that, although the Petitioner was appointed to fill a vacancy, in general the members of the North Kingstown Town Council (“Town Council”) and School Committee are elected. In response to Commissioner Quinn, Staff Attorney Stewart stated that the Code of Ethics might not require the Petitioner to resign from the School Committee if she is hired to be the Town Manager, but the North Kingstown Town Charter could require it. She further stated that the Petitioner represented that she would resign from the School Committee if she was hired as the Town Manager. In response to Chair Cheit, the Petitioner stated that she has not spoken to anyone on the Town Council regarding her interest in applying for the Town Manager position.

The Petitioner stated that when the unexpected School Committee vacancy was announced the Town Council was scrambling to find someone to appoint within the 30-day time period required by the Town Charter. In response to Commissioner Salk, the Petitioner stated that she receives a \$200 stipend each month for her service on the School Committee.

Commissioner Butler stated that he disagreed with the statement in the draft opinion that the Petitioner had no interest in serving on the School Committee because she did, in fact, apply to the Town Council for the vacant position. Chair Cheit questioned how relevant it was that she did not run for election to the School Committee but, instead, volunteered to be appointed to fill a vacancy. Staff Attorney Stewart replied that, if the Petitioner ran for election to the School Committee in the normal course, Commission staff would likely have not considered applying the Regulation 5014(c) exception. Chair Cheit stated that the idea that the School Committee vacancy was unforeseen is compelling. However, he directed staff to amend the language of the draft to make it clear that the Petitioner voluntarily applied to the Town Council to fill the School Committee vacancy.

Commissioner Murphy stated that the Petitioner seems qualified to be considered for the Town Manager position, and the facts did not suggest that she was using her connections from her brief stint on the School Committee to get the position. He concluded that it would not create an appearance of impropriety to grant an exception to the Petitioner. Commissioner Antone agreed. Chair Cheit stated that the Petitioner's education and experience in public service were compelling reasons to consider granting an exception. Commissioner Quinn agreed. Commissioner Butler stated that without seeing the job specifications for the Town Manager position he was hesitant for the Commission to find that the Petitioner is qualified for the position. Chair Cheit suggested amending the draft to include that the Petitioner has the relevant education and work experience associated with the position of Town Manager. Upon motion made by Commissioner Salk and duly seconded by Commissioner Antone, it was unanimously

VOTED: To issue Option #1 as an advisory opinion, as amended and attached hereto, to Sheila M. McGauvran, a member of the North Kingstown School Committee.

The next advisory opinion was that of:

Cynthia G. Wilson-Frias, Deputy Chief of Legal Services for the Public Utilities Commission, requesting an advisory opinion as to whether the Code of Ethics prohibits her from working on a matter involving a utility that is represented by her spouse's law firm.

Staff Attorney Giusti presented the Commission Staff recommendation. The Petitioner was present. The Petitioner stated that she expects her husband's law firm to represent National Grid through the conclusion of the case, in addition to the dispositive motions. Chair Cheit questioned whether the Commission can rely on the representations of the Petitioner's spouse, given that he is not before the Commission today and is not subject to the Code of Ethics. Staff Attorney Giusti stated that if the Petitioner's husband does not act in accordance with his representations, he could potentially cause his wife to violate the Code of Ethics. The Petitioner stated that she and her husband are also very cognizant of the rules of professional responsibility that apply to them, and they will be careful to observe them here.

In response to Commissioner Quinn, the Petitioner stated that she generally will not work on cases involving her husband's law firm, but National Grid just hired her husband's firm after she had been working on the matter since January 2015. She added that it would be very difficult for another attorney in her office to take over the case at this time. Upon motion made by Commissioner Antone and duly seconded by Commissioner Murphy, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Cynthia G. Wilson-Frias, Deputy Chief of Legal Services for the Public Utilities Commission.

The next two advisory opinions, which were considered together because they involved identical questions, were those of:

Bethany Scanlon, a Revenue Policy Analyst for the Rhode Island Department of Revenue, requesting an advisory opinion regarding whether she may accept an offer by the Pew Charitable Trusts (“Pew”) to pay for her travel expenses to attend a roundtable discussion in Washington, D.C., concerning the evaluation of economic development incentives.

Paul L. Dion, Ph.D., Chief of the Office of Revenue Analysis for the Rhode Island Department of Revenue, requesting an advisory opinion regarding whether he may accept an offer by Pew to pay for his travel expenses to attend a roundtable discussion in Washington, D.C., concerning the evaluation of economic development incentives.

Staff Attorney Gramitt presented the Commission Staff recommendations. Both Ms. Scanlon and Mr. Dion were present. Staff Attorney Gramitt presented the facts for both advisory opinions, which involved the application of Commission Regulation 36-14-5009 (“Regulation 5009”), pertaining to prohibited gifts. Mr. Dion stated that in 2013 the Rhode Island General Assembly passed an economic development tax incentive act, which Pew was involved in forming with the House and the Senate. He explained that this act resulted in a statutory charge to his Office to implement the act, but no extra resources were allocated to the Office of Revenue Analysis to perform the work. He stated that Pew has pushed for similar initiatives in other states. He informed that attending this discussion in Washington, D.C., would enable himself and Ms. Scanlon to learn ways to get this work done. He informed that Pew has done consulting work in Rhode Island before, but it does not charge for its work and represented to him that it will never charge for its work.

In response to Commissioner Salk, Mr. Dion stated that government representatives from thirty-five states will be attending the roundtable. He added that he did not anticipate encountering any vendors at this event and was not sure that vendors even exist for this type of work. Upon motion made by Commissioner Quinn and duly seconded by Commissioner Lynch, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Bethany Scanlon, a Revenue Policy Analyst for the Rhode Island Department of Revenue.

Upon motion made by Commissioner Butler and duly seconded by Commissioner Antone, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Paul L. Dion, Ph.D., Chief of the Office of Revenue Analysis for the Rhode Island Department of Revenue.

The next advisory opinion was that of:

Allison G. Cote, a senior compliance officer at the Rhode Island Commission for Human Rights, requesting an advisory opinion regarding whether she is prohibited by the Code of Ethics from serving as a member of the Maplehill Mobile Home Park Residents Association Board of Directors.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was present. Upon motion made by Commissioner Butler and duly seconded by Commissioner Murphy, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Allison G. Cote, a senior compliance officer at the Rhode Island Commission for Human Rights.

The final advisory opinion was that of:

W. Douglas Gilpin, Jr. FAIA, a member of the Town of New Shoreham Historic District Commission, who in his private capacity is an architect, requesting an advisory opinion regarding whether he qualifies for a hardship exception to the Code of Ethics' prohibition on representing his clients before his own board.

Staff Attorney Stewart presented the Commission Staff recommendation. The Petitioner was not present. In response to Commissioner Butler, Staff Attorney Stewart clarified that there was no requirement for the exception to apply that the Petitioner must be the only registered architect practicing on Block Island. She noted that fact has been represented by the Petitioner in his prior GCA 2010-1 advisory opinions. She stated that this fact was set forth with the Petitioner's representations in the beginning of the advisory opinion but was not relied on or considered in the analysis section. Upon motion made by Commissioner Murphy and duly seconded by Commissioner Antone, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to W. Douglas Gilpin, Jr. FAIA, a member of the Town of New Shoreham Historic District Commission.

The next order of business was:

Director's Report.

Executive Director Willever reported that there were five (5) complaints and two (2) advisory opinions pending. He stated that seven (7) APRA requests were granted since the last meeting, all of which were completed within one (1) business day.

The next order of business was:

Election of Officers.

Chairperson

Upon motion made by Commissioner Lynch and duly seconded by Commissioner Antone,
it was

VOTED: To elect Ross Cheit as Chairperson.

AYES: Timothy Murphy; Marisa A. Quinn; John D. Lynch, Jr.;
M. Therese Antone; Robert A. Salk; Frederick K. Butler.

ABSTENTIONS: Ross Cheit.

Vice Chairperson

Upon motion made by Commissioner Salk and duly seconded by Chair Cheit, it was

VOTED: To elect John D. Lynch, Jr. as Vice Chairperson.

AYES: Timothy Murphy; Marisa A. Quinn; M. Therese Antone;
Robert A. Salk; Frederick K. Butler; Ross Cheit.

ABSTENTIONS: John D. Lynch, Jr.

Secretary

Upon motion made by Commissioner Murphy and duly seconded by Commissioner Butler,
it was

VOTED: To elect Robert A. Salk as Secretary.

AYES: Timothy Murphy; Marisa A. Quinn; John D. Lynch, Jr.;
M. Therese Antone; Frederick K. Butler; Ross Cheit.

ABSTENTIONS: Robert A. Salk.

The next order of business was:

Executive Session.

At 9:54 a.m., upon motion made by Commissioner Antone and duly seconded by
Commissioner Lynch, it was unanimously

VOTED: To go into Executive Session, to wit:

1. Motion to approve the minutes of the Executive Session held on September 22, 2015.
2. In re: Henry F. Winthrop, Complaint No. 2015-4, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).
3. In re: Ronald J. Areglado, Complaint No. 2015-5, pursuant to R.I. Gen. Laws § 42-46-5(a)(2) and (4).

The Commission reconvened in Open Session at approximately 10:50 a.m. Upon motion made by Commissioner Antone and duly seconded by Commissioner Murphy, it was unanimously

VOTED: To seal the minutes of the Executive Session held on October 20, 2015.

The next order of business was:

Report on Actions Taken in Executive Session.

Chair Cheit reported that the Commission took the following actions in Executive Session:

1. Voted to approve the minutes of the Executive Session held on September 22, 2015.
[Reporter's note – The vote was as follows:
AYES: Timothy Murphy; Marisa A. Quinn; M. Therese Antone; Frederick K. Butler; Ross Cheit.
ABSTENTIONS: Robert A. Salk; John D. Lynch, Jr.]
2. In the matter of In re: Henry F. Winthrop, Complaint No. 2015-4, unanimously voted (7-0) to find that probable cause does not exist to believe that the Respondent violated the Code of Ethics as alleged in the Complaint. Therefore, the Complaint was dismissed with prejudice.
3. In the matter of In re: Ronald J. Areglado, Complaint No. 2015-5, voted to find that probable cause does not exist to believe that the Respondent violated the Code of Ethics by a vote of 7-0 as to Count 1, by a vote of 4-3 as to Count 2 and by a vote of 7-0 as to Count 3. Therefore, the Complaint was dismissed with prejudice.
[Reporter's note – The vote on Count 2 was as follows:
AYES: Timothy Murphy; John D. Lynch, Jr.; M. Therese Antone; Robert A. Salk.
NOES: Marisa A. Quinn; Frederick K. Butler; Ross Cheit.]

The final order of business was:

New Business

There being none, at 10:52 a.m., upon motion made by Commissioner Quinn and duly seconded by Commissioner Murphy, it was unanimously

VOTED: To adjourn.

Respectfully submitted,

Robert A. Salk
Secretary